



Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff.

April 2015

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Region	Defendants	Case Type/Status
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West Virginia Oil and Gas Company Fined \$600,000 for CWA Violations -- On April 22, 2015, **TRANS ENERGY, INC.**, an oil and gas exploration company based in Pleasants County, West Virginia, was sentenced in



The impoundments constructed on Robert Christopher's property. The pond at the bottom was constructed in 2009 and is included in the civil enforcement action. The impoundment at the top of the photo was constructed in 2010 and is the basis for one of the counts in the criminal information.

federal district court for the Northern District of West Virginia to two years of probation and ordered to pay fines totaling \$600,000.00 after the company admitted to multiple violations of the Clean Water Act in connection with its natural gas drilling activity.

Trans Energy sought to capitalize on Marcellus Shale natural gas resources in West Virginia. The company discharged materials such as rock, sand, soil and stone into streams in Marshall County, West Virginia to build large impoundments, or reservoirs of water, to supply water to nearby well sites. The reservoirs of water were subsequently used for Marcellus Shale drilling activity. Trans Energy further failed to properly train and supervise its employees and relied upon the unsubstantiated representations of a nearby property owner when determining

whether environmental laws were being followed. Trans Energy admitted that it unlawfully dumped pollutants into Marshall County waterways when the company pled guilty in October 2014 to three counts of “Negligent Discharge of Pollutants without a Permit.”

The Clean Water Act, also known as the Federal Water Pollution Control Act, was enacted by Congress to restore and maintain the integrity of the Nation’s waters. It prohibits the discharge of pollutants from a point source into the waters of the United States without a permit. Discharges of dredged or fill material into waters of the United States are prohibited unless authorized by the U.S. Army Corps of Engineers.

The case was investigated by EPA’s Criminal Investigation Division. It was prosecuted by Assistant U.S. Attorney David J. Perri and Special Assistant U.S. Attorney Perry McDaniel.

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The impoundment for the Goshorn well pad constructed in 2011. The white pipe at the bottom leads from the impoundment to the well pad.

North Carolina Dairy Company Owner Sentenced to Six Months Home Detention and Fined \$15,000 for Discharging Cow Feces into River

-- On April 30, 2015, **WILLIAM "BILLY" FRANKLIN JOHNSTON**, owner of one of North Carolina's largest dairy farms in Fletcher, N.C., was sentenced in federal district court for the



Waste lagoon pond that is overflowing at Tap Root Dairy.

Western District of North Carolina to four years of probation, six months of which he has to spend in home detention, for his role in the discharging of cow feces into the French Broad River. He was also ordered to pay a \$15,000 fine. The dairy company, **TAP ROOT DAIRY, LLC**, was also fined \$80,000 and was placed on a four-year probationary term. The company is also required to abide by a comprehensive environmental compliance plan.

A criminal bill of information filed in U.S. District Court on November 11, 2013, charged Tap Root and Johnston, of Mills River, N.C., with one count of violation of the Clean Water Act, in

connection with the discharging of cow feces into the French Broad River. Johnston, the owner of Tap Root, is also a Board Member of the North Carolina Department of Agriculture and currently serves as a Council member for the Town of Mills River.

According to filed documents and statements made in court, Tap Root maintains several hundred cows and manages hundreds of acres of crop fields in Fletcher. In the annual course of its operations, Tap Root disposes millions of pounds of solid and liquid animal waste, which are considered pollutants under the Clean Water Act. Court documents indicate that beginning in 2009, Johnston let his certification lapse as operator in charge of Tap Root's animal waste management system. Despite receiving repeated warnings and notices, court records show that as of December 4, 2012, Tap Root still had not designated a valid operator in charge to oversee its waste management system. Furthermore, according to filed documents, from September 3, 2012 to December 4, 2012, for a total of 93 days, Johnston and the Tap Root employees had failed to check and maintain the levels of cow waste in their on-site waste containment lagoons.

According to court records, this resulted in the spillover and discharge of 11,000 gallons of cow feces and other waste into the French Broad River on December 4, 2012. Testing by the North Carolina Department of Environment and Natural Resources concluded that the fecal coliform level where the waste stream meets the river was 99,000 parts per million, whereas anything above 800 parts per million is indicative of a release. Even downstream, testing found that the fecal coliform level was 2,200 parts per million. The French Broad River supplies drinking water to more than one million people and is frequently used for recreational water activities, such as swimming and kayaking. In 2012, North Carolina listed the French Broad River from Mud Creek to NC Highway 146 as "impaired" for fecal coliform bacteria. Tap Root is located on this impaired section of the French Broad River.

The case was investigated by EPA's Criminal Investigation Division and the State Bureau of Investigation's Diversion and Environmental Crimes Unit. The prosecution is being handled by Assistant United States Attorney Steven R. Kaufman of the U.S. Attorney's Office in Charlotte.

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Florida Men Sentenced for Poisoning Wildlife -- On April 28, 2015, **DARYL FISCHER**, of Seminole, Florida, and **RUSSELL TAYLOR**, of Loxahatchee, Florida, were sentenced in federal district court for the Middle District of Alabama to terms of probation for improper use of the pesticide Aldicarb, which is marketed as Temik.



Granules of the pesticide Aldicarb sprinkled on deer meat. The defendants did so with the intention of killing coyotes, however several animals died as a result.

The men were members of a hunting club leasing Bucksnot Plantation near Fitzpatrick, Alabama, and on January 31, 2014 sprinkled granules of Temik on portions of a deer carcass that they spread around the property in an effort to kill coyotes. Temik is toxic to fish, birds and other wildlife, and is not approved for use as a poison for animals. The poisoning resulted in significant loss of animal life, including three fox-hunting dogs, two red-tailed hawks, and a black vulture. In addition to their terms of probation, Fischer and Taylor are prohibited from hunting all game animals for one year, including deer and migratory birds; are ordered to pay restitution and fines in the amount of \$14,249.79; and will be responsible for publishing a public notice in the *Union Springs Herald* regarding the misuse of toxic pesticides.

The case was investigated by EPA's Criminal Investigation Division and the United States Fish and Wildlife Service Office of Law Enforcement. It was prosecuted by Assistant United States Attorney Gray M. Borden.

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Some of the animals that were killed as a result of ingesting the deer meat illegally laced with Aldicarb.

Maine Man Fined \$5,000 and Sentenced to Probation for False Statement -- On April 6, 2015, **CLYDE ELDRIDGE**, of Calais, Maine, was sentenced in federal district court for the District of Maine to one year of probation and fined \$5,000 for making a false statement to federal agents.

According to court records, Eldridge owned C&E Feeds, a feed and pet store in Calais. In 2010, the EPA and its Canadian counterpart, Environment Canada, were investigating the illegal use of the pesticide cypermethrin. On September 23, 2010, when asked by two EPA special agents to identify anyone to whom he had sold cypermethrin and whether he had kept records of the sales, Eldridge said he sold different amounts of cypermethrin to different people and that he did not keep track of the sales. The investigation revealed, however, that Eldridge sold cypermethrin on 10-11 occasions to one regional production manager employed by Kelly Cove Salmon Ltd., a subsidiary of Cooke Aquaculture, and that on each occasion Eldridge made a note of the quantity picked up by the manager. In April of 2013, Cooke Aquaculture pled guilty in New Brunswick Provincial Court and paid a \$490,000 fine for illegally using pesticides that killed hundreds of lobsters in waters that were about a mile from Maine's border.

In imposing a sentence, the judge said that Eldridge violated the trust of his fellow citizens in selling the pesticide, knowing that it would likely be used in violation of Canadian law and that violating laws meant to protect the environment is a serious matter.

The case was investigated by EPA's Criminal Investigation Division and Environment Canada.

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California Man Sentenced in the State of Washington for Trying to Alter Course of a River -- On April 17, 2015, **WILLIAM CAYO, SR.**, of Tahuya, California, was sentenced in the Mason County District Court for the State of Washington for trying to fill and alter the course of the Tahuya River to 30 days in jail on each of three counts, to be served concurrently, \$8,143 in fines, two years of probation and ordered to follow civil and criminal environmental laws. He was found to be in violation of the water pollution control act, violation of the shoreline management act, and conducting unpermitted hydraulic activities in connection with the alteration of the channel of the river's course in early February 2013.

Cayo used an excavator and bulldozer to fill the river channel near his home, and to redirect the river. In all, Cayo filled and graded nearly 1 ½ acres of river bed. Cayo was also sentenced to another 334 days on two counts and another 60 days on one, all of which were suspended. He also has another \$8,500 in suspended fines. A restitution hearing is set for June 26.

The case was investigated by EPA's Criminal Investigation Division. It was prosecuted by Assistant Attorney General Bill Sherman.

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Above, a Google Earth image of the same area shows the river's previous channel. Below, an aerial photo shows the section of the Tahuya River altered by William Cayo Sr. in February 2013.



Fourth Mexican Sentenced for Marijuana Cultivation Operation in Sequoia National Forest --On April 27, **DAVID ARREOLA**, of Michoacán, Mexico, was sentenced in federal district court for the Eastern District of California to seven and a half years in prison for conspiring to manufacture, distribute and possess with intent to distribute marijuana grown on public land and possessing a firearm in furtherance of the conspiracy.

According to court documents, Arreola and his co-defendants, Hernan Cortez-Villaseñor, Homero Pacheco-Rivera, Alfonso Cornejo, and Jose Luis García-Villa, all of Michoacán, Mexico, conspired in the cultivation of approximately 8,876 marijuana plants in the Greenhorn Creek area of the Sequoia National Forest in Kern County. Arreola also admitted that he possessed a 9 millimeter semi-automatic handgun in furtherance of the conspiracy and was in possession of the weapon at the time of his apprehension at the grow site by law enforcement officers.

Arreola was also ordered to make restitution to the U.S. Forest Service of \$3,300 for damage to the land and natural resources caused by the marijuana operation. According to court documents, the Greenhorn Creek site sustained extensive damage as a result of the operation. Native oak trees and other vegetation were cut down or otherwise killed to make room for the marijuana plants. The soil was tilled, and fertilizers and pesticides, including Fosfuro de Zinc, an illegal rat poison, were spread throughout the site. As noted in his plea agreement, Fosfuro de Zinc contains zinc phosphide, a highly toxic chemical that can sicken or kill human beings. When Arreola was apprehended, he was sick and had to be air-lifted out of the grow site. According to Arreola, several other growers had previously left the site, because they were sick.

Three of Arreola's co-defendants previously entered guilty pleas and were sentenced. Cortez-Villaseñor was sentenced to 10 years in prison, and Cornejo and García-Villa were both sentenced to 3 years and 10 months in prison. Pacheco-Rivera is a fugitive. Upon completion of his prison sentence, Arreola, like his co-defendants, faces potential removal to Mexico.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Forest Service, the U.S. Drug Enforcement Administration, the U.S. Immigration and Customs Enforcement's Homeland Security Investigations, and the Kern County Sheriff's Office. It was prosecuted by Assistant United States Attorney Karen Escobar.

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Smuggled Mexican pesticides involved in this investigation

Former Shell Employee in Wisconsin Ordered to Pay Over \$19 Million in Restitution -- On April 30, 2015, **RANDY JONES**, of Houma, Louisiana, a former corrosion coordinator for Shell Pipeline Company L.P., was sentenced in federal district court for the Eastern District of Wisconsin to five years of probation and ordered to pay \$19,377,785 in restitution.

Previously, Jones pleaded guilty to knowingly failing to conduct required safety test between January and December 2011 and submitting the false data to the Pipeline and Hazardous Material Safety Administration (PHMSA). Jones' violations were connected to a pipeline owned by Shell that delivered commercial aviation jet fuel to General Mitchell International Airport in Milwaukee, WI. In January 2012, a hole was discovered in the pipeline at Mitchell Airport after jet fuel began showing up in the soil surrounding the airport and Wilson Creek. Approximately 9,000 gallons of jet fuel was released from the pipeline.

The case was investigated by EPA's Criminal Investigation Division, the U.S. Coast Guard Investigative Service, the U.S. Department of Transportation office of Inspector General, and the Federal Bureau of Investigation with assistance from PHMSA. It was prosecuted by Jennifer A. Whitfield of the Environmental Crimes Section of the Department of Justice and Tracy M. Johnson of the U.S. Attorney's Office for the Eastern District of Wisconsin.

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Indiana Brothers Plead Guilty to \$145 Million Biofuels Fraud Scheme – **CHAD DUCEY**, of Fishers, Indiana, pleaded guilty in federal district court for the Southern District of Indiana for his role in a multi-state scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel incentives. His two brothers, **CHRIS DUCEY**, of North Webster, Indiana, and **CRAIG DUCEY**, of Fishers, pleaded guilty earlier for their roles in the same scheme. The Ducey brothers operated E-biofuels LLC, from a facility in Middletown, Indiana. As part of the scheme, they sold over 35 million gallons of biodiesel to customers for more than \$145 million by falsely claiming that the fuel was eligible for federal renewable energy incentives, when they knew it was not. In addition, Craig Ducey pleaded guilty to a related \$58.9 million securities fraud, which victimized over 625 investors and shareholders of Imperial Petroleum, a publicly-traded company and the parent company of E-biofuels.

From 2007 through 2012, E-biofuels had a biodiesel manufacturing plant in Middletown. Biodiesel is a fuel that can be used in diesel engines and that is made from renewable resources, including soybean oil and waste grease from restaurants. Under the Energy Independence and Security Act, properly manufactured biodiesel was eligible for a one dollar per gallon tax credit as well as another valuable credit called a Renewable Identification Number (RIN) that petroleum refiners and importers must comply with to satisfy their federal renewable fuel obligations.

The Ducey brothers admitted that they knew that E-biofuels was fraudulently reselling biodiesel that they obtained from co-conspirators in New Jersey, which had already been used to claim biodiesel incentives. By falsely claiming to have made it themselves in Middletown, the Ducey brothers and their co-conspirators created a second set of invalid incentives, which they passed on to their customers. They realized huge per gallon profits through this scheme, sometimes in excess of \$12,000 per truckload. Over the course of approximately



E-biofuels plant.

two years, the co-conspirators fraudulently sold more than 35 million gallons of fuel for a total cost of over \$145 million. The co-conspirators and their companies realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

The Ducey brothers pleaded guilty to conspiracy, false claims against the Internal Revenue Service (IRS), wire fraud and lying to the EPA and the IRS. In particular, Chad Ducey, an engineer by training, caused a third-party engineer to submit false reports to justify the production at E-biofuels. Those reports claimed that E-biofuels was using the chemical process of transesterification to produce biodiesel, when in fact, the company simply re-sold biodiesel that had been made by others and had already been used to claim biodiesel incentives.

The Ducey brothers face up to 20 years of imprisonment on some of the charges, as well as large fines and the requirement that they provide full restitution to the victims of this crime, which include U.S. taxpayers, truck stop companies, fuel traders and others. Craig Ducey will also have to pay restitution to the victims of the securities fraud. The co-conspirators will also have to forfeit \$7.5 million in seized funds, jewelry, artwork, cars and homes they purchased with the funds obtained through the scheme. The New Jersey co-conspirators, Joseph Furando and Katirina Pattison, have already pleaded guilty for their involvement in the scheme, along with the companies they operated, CIMA Green and Caravan Trading Company, both previously located in Park Ridge, New Jersey.

The case was investigated by EPA's Criminal Investigation Division, IRS- Criminal Investigation, the FBI and the Securities and Exchange Commission, with assistance during the investigation by the U.S. Secret Service and the U.S. Department of Agriculture's Office of Inspector General-Investigations. It is being prosecuted by Senior Litigation Counsel Steven D. DeBrotta and of the U.S. Attorney's Office of the Southern District of Indiana, Assistant Chief Thomas T. Ballantine of the Environmental Crimes Section of the Department of Justice's Environment and Natural Resources Division and Special Assistant U.S. Attorney Jake Schmidt of the Southern District of Indiana and Senior Attorney for the Securities and Exchange Commission.

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New Jersey Companies and Owner Plead Guilty to Biodiesel Fuel Fraud Scheme -- On April 15, 2015, **JOSEPH FURANDO**, of Montvale, New Jersey, together with two companies he operated in New Jersey, pleaded guilty in federal district court for the Southern District of Indiana for their parts in an Indiana-centered scheme to defraud biodiesel buyers and U.S. taxpayers by fraudulently selling biodiesel incentives. From 2007 through 2012, e-biofuels owned a biodiesel manufacturing plant in Middletown, Indiana. Biodiesel is a fuel that can be used in diesel engines and that is made from renewable resources, including soybean oil and waste grease from restaurants. Under the Energy Independence and Security Act, properly manufactured biodiesel was eligible for a dollar per gallon tax credit as well as another valuable credit, called a RIN, that petroleum refiners and importers could use to demonstrate compliance with federal renewable fuel obligations.

Furando has admitted that sometime in late 2009, he and his companies, defendants **CARAVAN TRADING COMPANY** and **CIMA GREEN**, began supplying e-biofuels with biodiesel that had already been used to claim tax credits and RINs. Because these incentives had already been claimed, Furando could purchase the biodiesel at low prices, sometimes for more than two dollars per gallon less than biodiesel that was still eligible for the credits. Furando knew that once he supplied product, e-biofuels and his individual co-defendants would illegally re-certify it and sell it at the much higher market price for incentivized biodiesel, known as B100 with RINs. Within the circle of those he trusted, Furando referred to this program of fraud as “Alchemy.” Furando, his companies, and his Indiana co-defendants realized huge per gallon profits through this scheme, sometimes in excess of \$12,000 per truckload. Furando realized his profits through the prices he charged e-biofuels. Over the course of approximately two years, the defendants fraudulently sold more than 35 million gallons of fuel for a total cost of over \$145.5 million. The defendants realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers.

Furando pleaded guilty to all of the charges against him, which included conspiracy, wire fraud, lying to investigators during a search of his offices and engaging in prohibited financial transactions, money laundering. He faces up to twenty years of imprisonment on some of the charges, as well as large fines and the requirement that he provide full restitution to the victims of this crime, which include U.S. taxpayers, truck stop companies, fuel traders and others. Furando has also agreed to forfeit biodiesel-powered motorcycles, sports cars, real estate, jewelry, watches and other luxury goods that he purchased with the proceeds of this fraud. The plea completes the part of this case involving New Jersey defendants. Four Indiana defendants remain, who face trial in the Southern District of Indiana on May 11, 2015.

The case was investigated by EPA’s Criminal Investigation Division, the FBI and the Securities and Exchange Commission, with assistance during the investigation by the U.S. Secret Service and the U.S. Department of Agriculture. It is being prosecuted by Senior Litigation Counsel Steven D. DeBrotta of the U.S. Attorney’s Office, Assistant Chief Thomas T. Ballantine of the Environmental Crimes Section in the Department of Justice’s Environment and Natural Resources Division and Special Assistant U.S. Attorney Jake Schmidt of the U.S. Attorney’s Office and Senior Attorney for the Securities and Exchange Commission.

Other defendants are scheduled for trial pursuant to the indictment in this case. An indictment is only a charge and is not evidence of guilt. All defendants are presumed innocent and are entitled to a fair trial at which the government must prove guilt beyond a reasonable doubt.

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California Company and Owner Plead Guilty to Dumping Hazardous Wastes Containing Nickel and Zinc into Sewers

-- On April 14, 2015, **SOUTHERN CALIFORNIA (SoCal) PLATING COMPANY**, a metal finishing company located in Logan Heights, California, and its owner, **PAUL HUMMELL**, admitted illegally storing hazardous waste and unlawfully discharging the waste into the sewer system. In pleading guilty, in federal district court for the Southern District of California SoCal Plating acknowledged that it illegally discharged industrial wastewaters in excess of its permit limits into the city of San Diego sewer system. Sentencing for SoCal Plating and Hummell is set for August 3, 2015.

As detailed in court, the firm's permit required compliance with Federal pretreatment standards for metal finishers, which limits the daily maximum concentration of nickel to 3.98 mg/L and the daily maximum concentration of zinc to 2.61 mg/L. However, SoCal Plating admitted that on July 8, 2013, and October 8, 2013, its employees discharged industrial wastewater to the sewer system which contained zinc and nickel in excess of these limits.

Company owner Paul Hummell admitted that the firm's metal finishing operations generated a number of wastewater streams, including spent corrosive cleaning and process baths, and rinse waters which were corrosive and contaminated with toxic heavy metals.

On January 28, 2014, an inspection by the San Diego Department of Environmental Health Services ("DEH") at SoCal Plating revealed drums of wastewater which had been stored at the site for over 90 days. The drums were sampled and found to contain chromium in toxic concentrations rendering it federally regulated hazardous waste. Hummell admitted that he knew that the industrial wastewater stored at the facility was hazardous waste and that no permit existed to store hazardous waste at the SoCal Plating site.

In pleading guilty, SoCal Plating agreed to pay restitution of \$8,266 to DEH and \$28,130 to the city of San Diego Industrial Waste Control Program for costs associated with monitoring the firm's discharge and disposal of its wastewaters. Wastewater containing heavy metals such as those generated by metal finishers is required to be treated prior to discharge to the sewer system in order to avoid compromising the treatment works and/or pass through to the receiving waters. Heavy metals in high concentrations can damage the digesters at the sewage treatment plants, causing them to operate less efficiently.

The case was investigated by EPA's Criminal Investigation Division.

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Inspection photos from inside Southern California Plating Company.

Rhode Island Chemical Company to Plead Guilty to Violating CAA by Failing to Develop and Implement Risk Storage Plan

-- On April 6, 2015, **MANN DISTRIBUTION, LLC**, of Warwick, Rhode Island, also known as Mann Chemical, LLC, is expected to plead guilty in federal district court for the District of Rhode Island to a federal charge of violating the Clean Air Act for failing to develop and implement a risk management plan to minimize the chance of release of hydrofluoric acid from its Warwick facility, and to protect workers, the community, and emergency and first responders in the event of a release or fire involving the chemical.

At sentencing, the court will be asked to impose a fine of \$200,000 and to order the company to serve a term of three years' probation for failing to adhere to Environmental Protection Agency regulations which require that a Risk Management Plan be developed, including a "worst case" response plan.

According to a Center for Disease Control and Prevention website, hydrogen fluoride is a chemical compound that contains fluorine. It can exist as a colorless gas or as a fuming liquid, or it can be dissolved in water. When hydrogen fluoride is dissolved in water, it may be called hydrofluoric acid. Hydrofluoric acid is used mainly for industrial purposes, and may cause skin burns, tissue damage and/or respiratory concerns.

EPA regulations require facilities storing more than 1,000 lbs. of hydrofluoric acid to develop and implement a Risk Management Plan. An EPA inspection in June 2009 determined that Mann Chemical failed to develop and implement a Risk Management Plan while storing 92 drums of hydrofluoric acid in a concentration of 70 percent. The inventory indicated that each drum weighed 500 pounds, for a total of 46,000 pounds of hydrofluoric acid.

A sentencing hearing has not yet been scheduled. A plea agreement filed with the court stipulates that at sentencing the government and Mann Chemical will recommend that the court impose a fine of \$200,000. In addition, Mann Chemical will be required to issue a public apology.

The case was investigated by EPA's Criminal Investigation Division. It is being prosecuted by Assistant U.S. Attorney Terrence P. Donnelly and Special Assistant United States Attorney Peter Kenyon of EPA.

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Mann Distribution Facility in Warwick, Rhode Island.